

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

June 29, 2006

In Reply Refer To:
Enbridge Pipelines (KPC)
Docket No. RP06-376-000

Enbridge Pipelines (KPC)
1100 Louisiana, Suite 3300
Houston, TX 77002

Attention: Neal A. Gerstandt, Vice President
Regulatory Affairs and Contract Administration

Reference: Revisions to Scheduling and Curtailment Provisions

Ladies and Gentlemen:

1. On June 1, 2006, Enbridge Pipelines (KPC) (KPC) filed revised tariff sheets¹ to modify the scheduling and curtailment provisions set forth in its General Terms and Conditions (GT&C). Under its currently effective tariff, KPC does not differentiate between forward haul transportation service and backhaul transportation service for the purposes of scheduling receipts and deliveries and curtailments. Under its proposal, KPC would differentiate between forward haul and backhaul service for scheduling priorities and curtailments, and would assign all firm backhaul service a lower priority than both primary and secondary firm forward haul services.

2. To implement its proposal, KPC proposes two specific modifications to its GT&C. First, it proposes to modify the scheduling priority lists for both receipts and deliveries set forth in section 8.7 of its GT&C. KPC proposes to schedule “firm service on a backhaul basis” after: (1) firm forward haul service to primary delivery points; (2) firm forward haul service to secondary delivery points within the primary path; and, (3) firm forward haul service to secondary delivery points outside the primary path. Firm backhaul transportation service would still receive a higher scheduling priority than interruptible service under KPC’s proposal.

¹ Third Revised Sheet No. 123, Second Revised Sheet No. 124, Original Sheet No. 124A, First Revised Sheet No. 125A, and First Revised Sheet No. 126 to its FERC Gas Tariff, First Revised Volume No. 1.

3. KPC also proposes to modify its curtailment order set forth in section 9.3 of its GT&C. Specifically, under its proposal, in the event of curtailment, KPC would first curtail interruptible service, followed by: (1) firm backhaul service; (2) firm forward haul service using a secondary point of delivery; and, (3) firm forward haul service using a primary point of delivery. KPC asserts it is proposing these tariff revisions as clarifications, since backhaul services are not included in its list of scheduling priorities and curtailments.

4. The Commission noticed KPC's filing on June 6, 2006, allowing for protests as provided by section 154.210 of the Commission's regulations. Pursuant to Rule 214, 18 C.F.R. § 385.214 (2005), all timely filed motions to intervene and any motions to intervene out-of-time filed before the issuance date of this order are granted. Granting late intervention at this stage of the proceeding will not disrupt this proceeding or place additional burdens on existing parties. No party filed a protest or adverse comments.

5. We reject KPC's revised tariff sheets. KPC's proposal improperly gives all firm backhaul services, including backhaul service using primary firm points, a lower priority than all firm forward haul services, including forward haul service using secondary firm points. This is contrary to Commission policy.

6. Section 284.7(a)(3) of the Commission's regulations defines firm transportation service as service that "is not subject to a prior claim by another customer or another class of service and receives the same priority as any other class of firm service." Consistent with that regulation, firm contracts between pipelines and their shippers typically provide that the pipeline will transport up to a specified contract demand from a primary receipt point specified in the contract to a specified primary delivery point. The Commission has held that contractual provision "specifies the shipper's guaranteed firm right to service, and the pipeline must reserve sufficient capacity at the primary points and the intervening mainline to be able to guarantee this service." *Transcontinental Gas Pipe Line Corp.*, 104 FERC ¶ 61,171 at P 24 (2003). The Commission also requires that firm shippers be permitted to use all other points in the zones for which they pay on a secondary basis. However, in Order No. 636-A, the Commission expressly held that firm shippers' primary rights cannot be "bumped, preempted, or curtailed under the flexible receipt and delivery point policy."²

² Pipeline Service Obligations and Revisions to Regulations Governing Self-Implementing Transportation; and Regulation of Natural Gas Pipelines after Partial Wellhead Decontrol, FERC Statutes and Regulations, Regulations Preambles January 1991-June 1996 ¶ 61,950 at 30,583 (1992).

7. Accordingly, to the extent KPC enters into a contract to provide firm backhaul service to a shipper, it must give service using the primary points listed in that contract the same priority it gives any other primary firm service. By contrast, firm backhaul service using secondary points, like any other firm service using secondary points, should be given a lower priority than any firm service using primary points. In addition, in *Regulation of Short-Term Natural Gas Transportation Services, and Regulation of Interstate Natural Gas Transportation Services*,³ the Commission found that:

when a backhaul is a reversal of the contract flow, which is usually the case, it is an out-of-path, secondary firm transaction. As such, it receives a lower scheduling priority than primary firm service (and within-the-path secondary service).

KPC's existing tariff appropriately implements these priorities by providing the highest priority for all primary firm service, the next highest priority for within-the-path secondary firm service, and a lower priority for outside-the-path secondary firm service. By contrast, KPC's instant proposal would improperly allow secondary firm forward haul service to bump primary firm backhaul service. Accordingly, the Commission rejects KPC's filing.

By direction of the Commission.

Magalie R. Salas,
Secretary.

Cc: All Parties

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³ 106 FERC ¶ 61,088 at P 58 (2004) (footnote omitted).